



## Hendry County Sheriff's Office Court Services Division Chapter 200 - Civil Section



**Eff. Date:**  
06/14/2019

**Review Date:**  
06/14/2022

**Revised Date:**

**Policy # CSD 210.09**

**Subject: Levies**

- I. **PURPOSE:** To establish guidelines for carrying out the administrative and operational functions of the Hendry County Sheriff's Office Civil Section.
- II. **SCOPE:** This order shall apply to all Civil Section members.
- III. **POLICY:** It is the policy of the Hendry County Sheriff's Office Civil Section to be responsible for receiving, processing and execution/service of all enforceable and non-enforceable judicial process issued by the circuit courts of the State of Florida and courts of foreign jurisdiction, utilizing a due diligence effort to locate persons to be served with such judicial process.
- IV. **PROCEDURE:**
  - A. All property, both real and personal, received pursuant to FSS Chapters 55 and 56 shall be accounted for in the records of the civil section in the following manner:
    1. A description of the real property shall include both its "legal" description and its physical location (numerical address) which shall be kept in the Records Management System (RMS) stating the defendant's name, attorney name and the month/year of the levy.
    2. A description of the personal property shall contain as detailed a description as possible of the item(s) seized and, when applicable, the make, model and serial number of the item(s) seized. The movers shall be responsible for packing and storage of the seized property. The deputy shall be responsible for inventory of the seized items prior to them being packed by the movers. The inventory sheet and packing sheet shall be kept in the RMS record.
    3. A description of a motor vehicle levy shall include the year, make, vehicle identification number and when possible the license tag number. When the vehicle is seized by a deputy he/she shall request a wrecker which has a secured facility. The deputy shall complete a levy/tow form detailing the vehicle information, court case number and towing company name and address. This information shall be placed in the RMS record.
    4. Property seized during a Replevin shall be turned over to the person designated in the court order. An electronic file shall be established for sheriff's returns on Replevin which shall be kept in the RMS record.
    5. All property acquired pursuant to civil legal process shall be disposed of according to court ordered directives or per FSS Chapter 56.

### **B. Levy Process:**

1. Prior to accepting instructions for levy, the following information from the levying party shall be obtained:
  - a. Certified copy of the judgment lien from Tallahassee
  - b. Creditor's affidavit/sheriff's certification for any writs docketed prior to 10/01/01
  - c. An original writ of execution
  - d. Original instructions for levy/clock in instructions
  - e. Cost deposit sufficient to cover levy costs
  - f. Sufficient address where levy is to be made
  - g. Sufficient address of debtor/defendant
  - h. Sufficient address of creditor/plaintiff/attorney
2. The following has been established as procedure for levy/sale of property seized under FSS 56 (see attached levy information below).

#### **LEVIES**

##### **Deposit Costs for Levy:**

Stock Certificate: \$700.00

Motor Vehicle: \$ 2,000.00

Real Estate: \$ 900.00

\$ 5,000.00 minimum for all property depending on what is levied upon; amount established by the enforceable writs management

#### **C. To Levy on Real Estate: Check that all criteria in Section A and B have been met.**

1. Once the above criteria have been met, the levy may proceed:
2. Enter into RMS
3. Deposit the cost deposit submitted with the levy
4. Scan the receipt in RMS
5. Complete a levy checklist in RMS
6. Figure the interest and prepare paperwork for the deputy, include a deputy's worksheet on levy and all paperwork received from levying party.
7. Complete and send the original Notice of Sheriff's Levy to the Clerk of Court for recording.  
NOTE: write in red ink on the side of the notice "Return to HCSO Civil Section."

8. When the Notice of Sheriff's Levy is returned, the Notice of Sheriff's Sale may be prepared for inclusion in the newspaper.
9. Determine the first publication date. Mail certified letters, before the first day of publication, to all parties listed in the creditor's affidavit and complete affidavit of compliance of mailing.
10. Type up the Notice of Sheriff's Sale and email a copy to the newspaper. Ask a colleague to proofread it before emailing.
11. Check for proof of publication on the newspaper's website. Call the newspaper if errors or corrections are found/needed.
12. Two days before the sale, the interest may be figured. An Estoppel Letter shall be requested from the moving party.
13. If there are prior liens the levying party may bid cash (only) up to their cost deposit plus a \$500.00 liquidation fee.
14. Only senior judgment creditors may bid on their judgments. Bids shall not exceed the amount of execution plus subsequently accruing interest and court costs after all the costs of the sale are met.
15. Figure ALL costs through the day of sale. If additional cost deposit is needed, call the moving/levying party and advise that he/she should bring a check with him/her on the day of the sale.
16. At a sheriff's sale, a "DAY OF SALE STATEMENT," a receipt book, the printed levy file (so you can show proof of publication), a bidder's sign-up sheet and bidder's numbers are required.
17. After the sale: Any monies from the sale shall be deposited into the suspense account using the receipt. Tabulate requests for all outstanding bills (figure the Sheriff's costs plus the \$500.00 liquidation cost but only if it was a CASH bid, do not give the \$500.00 liquidation cost when there has been a credit bid).
18. Prepare a sheriff's deed. Ask a colleague to proofread it for correctness and accuracy. If proceeds are sufficient to cover all costs, the liquidation fee and judgment, then complete a SATISFACTION along with a SHERIFF'S RETURN. If judgment is not satisfied complete a SHERIFF'S RETURN and state that the judgment is showing a deficit and indicate the remaining balance due on the return.
19. Also show an accounting of costs and amount paid to levying party.
20. Make copies of all documents and forward to the levying party, debtor/defendant.
21. Zero out the suspense account and scan all documents to RMS.

**D. To Levy on a Motor Vehicle: Check that the criteria in Section A and B have been met.**

Run the TAG or VIN# in FCIC to determine that the defendant(s) do own the vehicle to be levied. Check for prior executions.

If judgment/execution is in only ONE person's name and the vehicle is registered to more than one person and they are NOT married, the levy may proceed. If the registered parties ARE married, and the names are separated by "and" the levy may not proceed without a court order known as AN ORDER TO COMPEL LEVY. However, if the judgment is against the husband and wife then no court order is required.

1. Once criteria in Sections A and B have been met, and ownership of vehicle determined using above instructions, the levy may proceed.
2. Clock in the instructions for levy.
3. Enter into RMS
4. Enter debtor name, creditor name and month and year of levy.
5. Deposit the cost deposit submitted with the levy.
6. Scan receipt in RMS.
7. Complete the levy checklist in RMS file.
8. Figure the interest and prepare the paperwork for the deputy. Include a deputy's report on levy worksheet, a copy of the vehicle registration information and a copy of the paperwork received from levying party.
9. Locate the property. If unable to pay the judgment, have the vehicle towed to a secure facility.
10. Complete and send the original Notice of Sheriff's Levy. (Write on the side of the notice in RED ink "Return to HCSO CIVIL SECTION").
11. Determine the first publication date. Mail certified letters, before the first day of publication, to all parties listed on the creditor's affidavit. Complete affidavit of compliance of mailing.
12. Prepare the notice of sheriff's sale. Email a copy to the newspaper. Ask a colleague to proofread it for correctness and accuracy.
13. Check proof of publication on newspaper's website. Call the newspaper if changes need to be made.
14. Two days before the sale figure interest and ALL costs, including the towing and storage. If an additional costs deposit is needed to cover these, call the levying party and advise them that they need to bring a check with them the day of the sale to cover these costs.
15. At a sheriff's sale, a "DAY OF SALE STATEMENT," a receipt book, the levy file (so you can show proof of publication), a bidder's sign-up sheet and bidder's numbers are required
16. After the sale, deposit the monies from the sale (if any). Complete a check request for any outstanding bills. Figure the sheriff's costs and request the \$500.00 liquidation cost (if applicable).
17. Prepare a Sheriff's Bill of Sale and Odometer Statement. Re-read it for accuracy. Forward to the civil section supervisor for signature.
18. Draft a letter to the towing company authorizing the release of the vehicle.
19. Complete a Release of Levy request and send release and check to Clerk of Court.
20. Complete a Sheriff's Return: show accounting of costs and to whom monies paid.
21. Make copies of all paperwork and forward to levying party and debtor.
22. Zero out the account and place levy file folder in the levy files.

**E. To Levy on Personal Property: Follow and meet all criteria in Sections A and B.**

You will have to contact a moving company to arrange for packing/pick-up and storage of items levied upon. The Plaintiff or Plaintiff's attorney may be present at time of levy to point out items to be taken.

1. Clock in the Instructions for Levy.
2. Enter into RMS.
3. Enter name of debtor, creditor, month and year.
4. Deposit cost deposit and scan receipt into RMS.
5. Complete levy checklist in RMS.
6. Set a date to do the levy with the moving/storage company.
7. Prepare the worksheets showing interest and money due for the deputy.
8. The deputy must do an itemized inventory of all property taken during this levy.
9. When levy is done, prepare a Notice of Sheriff's Levy. Write in RED ink on the side to "Return to HCSO CIVIL."
10. Prepare the Notice of Sheriff's Sale. Have someone else proof read the AD to make sure it is correct and accurate.
11. Determine the first publication date. Mail certified letters, before the first day of publication, to all parties listed on the creditor's affidavit. Complete affidavit of compliance of mailing.
12. E-mail a copy of the Notice of Sheriff's Sale to the newspaper.
13. Check Proof of Publication on newspaper's website, read it for errors and contact the newspaper if there are any.
14. Two days prior to the sale, figure interest and costs. An Estoppel Letter shall be requested from the moving party. If more money is needed to cover costs, call the levying party and tell them to bring a check with them the day of the sale. (If you notice shortage of funds prior to this, call the levying party at that time).
15. At the Sheriff's sale, set up the inventory in LOTS, number the LOTS.
16. You will first do a BULK bid for ALL items. When this is completed, set aside the final bid. Then you will do the LOT bids. When you have completed all LOTS, total them up and see if the BULK or the LOT bid(s) were higher. If BULK is higher the sale goes to BULK bid. If LOT bids were higher then it will go by LOT. If it goes by LOT you will write the receipts showing which lots each bidder obtained and how much their TOTAL bids were. Attach a copy of the inventory with items bought highlighted to the bid of sale; make an extra copy for Department of State.
17. Complete a Sheriff's Bill of Sale for each successful bidder, reflecting the LOTS they purchases and the TOTAL amount bid for those lots. Have someone proof read the bills of sale and forward to the supervisor for signature, sergeant or lieutenant.
18. Complete Release of Levy Form. Send release to Clerk of Court.

19. Make copies of ALL paperwork and forward to levying party and the debtor
20. Attach a copy of the return to any executions, leave original in file.
21. Zero out levy account and place levy folder in levy files.

F. **If the debtor/defendant files BANKRUPTCY this stops all action during a LEVY.** You will need to do the following to close-out or continue the levy.

1. Obtain a SUGGESTION OF BANKRUPTCY from debtor/defendant.
  2. Send a letter (see form letter) to the TRUSTEE for Chapter 7 or 11, requesting the Trustee notify us whether he/she wishes to obtain custody of the property or release it as part of the estate.
  3. If you do not hear from the Trustee and the moving party wishes to continue with the levy/sale, you will need the following:
  4. An Order from the Bankruptcy Court LIFTING the AUTOMATIC stay. This Order will be very specific as to what the stay is lifted for. It should also contain language directing/commanding the Sheriff to proceed with the sale.
  5. You may also proceed once you can determine that the: Property is no longer part of the bankruptcy estate AND the case has been closed, dismissed or discharged. The best way to determine this is to obtain a copy of the discharge closure or dismissal.
  6. If the levying party or attorney of levying party requests the property held by the Sheriff be released to the debtor/defendant, do so immediately. NOTE: you should get a letter from the levying stating above.
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**Your electronic signature in Power DMS acknowledges you have read this policy and understand it.**